

TO: Commissioners

FROM: Eric Gorsegrner, Interim Director

DATE: July 14, 2005

SUBJECT: OFFICEHOLDER EXPENSE ADVISORY COMMITTEE – FINAL REPORT

BACKGROUND & PROCESS:

On May 26, 2005 a special hearing was scheduled to receive public input on the Officeholder Expense rule. As a result of this hearing an Advisory Committee was created to analyze the rule and recommend changes to the Commission. Those volunteering to serve on the committee included Representative Olivia Cajero Bedford, Ann Eschinger, Don Goldwater, Barbara Lubin, Bart Turner, Commissioner Gary Scaramazzo and Representative Jerry Weiers.

The committee met a total of four times (June 7, 21, 29 & July 5). The first meeting included a voluminous background packet (not attached) of informational documents with a single page referenced chronology dating back to 2001 (attachment #3). There was general discussion of the background / rationale for the rule and some consensus points were developed for future meetings. For all four meetings I acted in the capacity of “ex officio” Chair.

The last three meetings were devoted to discussion, line by line analysis, and actual edits to the rule. The final document you have today reflects the third and final generation of changes. These are embodied in attachment #2 (colorized) and represent the sum of the proposed recommendations from the working committee. The “legislative edit” and color coding format allows you to easily identify changes from the original rule (attachment #1).

Some of the policy questions the Committee discussed and considered included the following:

- Whether rulemaking authority over officeholder accounts exists at all. Despite some disagreement on this point the committee recognized that this matter would have to be clarified by another jurisdiction (possibly by an Attorney General’s opinion or a lawsuit) and proceeded constructively to examine modifications to the existing rule.
- There was also some philosophical disagreement over whether privately funded officeholder expense committees were in keeping with the spirit of the Clean Elections Act. Some are in favor of having the committees funded by legislative appropriation but it was also recognized that this scenario is unlikely in the current climate.
- The committee agreed that keeping the rule as simple as possible would be wise for a variety of reasons.

Some of the key changes to the rule are:

- Providing a new definition for “Officeholder Expense Cycle”.
- Changing the period of use dates to allow expenses to occur over a broader window of time.
- Increasing the amount an individual can give to an officeholder expense committee.
- Increasing the amount an officeholder can raise for an officeholder expense committee.
- Adding to the list of permissible uses of officeholder expense funds and allowing some expenses to be made at any time during an officeholder’s term.

## FINAL RECOMMENDATIONS:

At the conclusion of the last meeting each provision of the revised proposed rule was voted on separately. Those voting members in attendance included Advisory Committee members Cajero-Bedford, Eschinger, Goldwater & Weiers. In reading the revisions note that language from the original rule appears in black, deleted language is in lowercase red with a “~~striketrough~~”. New language is in “UPPERCASE” and blue. The vote on each provision was as follows:

F.	(4-0)	F.7.e.	(3-1)
F.1.	(4-0)	F.8.	(4-0)
F.2.	(4-0)	F.9.	(3-1)
F.3.	(3-1)	F.9.a.	(4-0)
F.4.	(3-1)	F.9.b.	(4-0)
F.5.	(4-0)	F.9.c.	(4-0)
F.6.	(4-0)	F.9.d.	(4-0)
F.7.	(4-0)	F.9.e.	(4-0)
F.7.a.	(4-0)	F.9.f.	(4-0)
F.7.b.	(4-0)	F.10.	(4-0)
F.7.c.	(4-0)	F.11.	(4-0)
F.7.d.	(4-0)	F.12.	(4-0)

In addition to the actual edits to the rule, the committee voted on four additional questions listed below. It was recognized by all voting that it is the Commission’s prerogative to request or not request an Attorney General’s opinion on these items. The vote by committee members present follows each item:

1. Requesting a Formal Attorney General’s Opinion: Does the Clean Elections Act give the Commission the authority to enact and enforce the officeholder expense rule? (4-0)
2. Requesting a Formal Attorney General’s Opinion: Under current statutes can lobbyists contribute to officeholder expense account committees? (1-3)
3. Requesting a Formal Attorney General’s Opinion: Under current statute, can a lobbyist acting in the capacity of a private citizen and not in the capacity of a lobbyist, contribute to officeholder expense account committees from personal funds? (4-0)
4. Requesting a Formal Attorney General’s Opinion: Do current statutes regarding gifts to elected officials impact or prohibit officeholder expense account committees? (3-1)

In closing, staff would note for the record that it was truly a pleasure to work with this committee (some of whom drove considerable distances or sacrificed personal work time to participate). The same can be said for the members of the public who were present for many of the meetings (Nancy Read and Dave Gass warrant special mention for providing input that was particularly helpful at key times in the process).

## ATTACHMENTS:

- 1) Existing Officeholder Expense Rule
- 2) Revised Rule with edits proposed by the Committee
- 3) Officeholder Expense Rule Document Chronology (Historical Record)
- 4) Fact Sheet on Current Rule from the CCEC Website